

Decision **DRAFT DECISION OF ALJ MINKIN** (Mailed 11/22/2002)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Categorization of Non-Nuclear Generation- Related Sunk Costs Eligible for Recovery in the Competition Transition Charge.	Application 96-08-001 (Filed August 1, 1996)
Application of San Diego Gas & Electric Company to Identify and Value the Sunk Costs of its Non-Nuclear Generation Assets.	Application 96-08-006 (Filed August 1, 1996)
Application of Southern California Edison Company to Identify and Value the Sunk Costs of its Non-Nuclear Generation Assets, in Compliance with Ordering Paragraph No. 25 of D.95-12-063 (as modified by D.96-01-009 and D.96-03-022).	Application 96-08-007 (Filed August 1, 1996)
Application of Pacific Gas and Electric Company To Establish the Competition Transition Charge.	Application 96-08-070 (Filed August 30, 1996)
In the Matter of the Application of Southern California Edison Company to estimate its Transition Costs as of January 1, 1998 in Compliance with Ordering Paragraph 26 of D.95-12-063 (as modified by D.96-01-009 and D.96-03-022), and related changes.	Application 96-08-071 (Filed August 30, 1996)
Application of San Diego Gas & Electric Company to Estimate Transition Costs and to Establish a Transition Cost Balancing Account.	Application 96-08-072 (Filed August 30, 1996)

**ORDER CLOSING THESE PROCEEDINGS
AND MODIFYING DECISION (D.) 97-06-060 AND D.97-11-074**

Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) filed these applications pursuant to Decision (D.) 95-12-063, as modified by D.96-01-009, the policy decision issued in the Commission's electric restructuring Rulemaking and Investigation, R.94-04-031 and I.94-04-032, and pursuant to Assembly Bill (AB) 1890 (Stats. 1996, Ch. 854). The Commission and the Legislature recognized that in the transition to a competitive generation electricity market, it was possible that certain utility generation-related assets and obligations would prove to become uneconomic, or stranded. These are also known as transition costs. Since these proceedings were initiated, the Commission issued D.96-09-032, D.97-06-060, D.97-11-074, D.97-12-039, D.98-04-028, D.98-04-065, D.98-12-067, and D.99-02-044 in these dockets.

On October 7, 2002, Administrative Law Judge (ALJ) Minkin issued a ruling seeking comments on whether these proceedings needed to remain open. The ruling identified which Commission proceedings were the appropriate forum for handling issues that have typically been handled in these dockets. For example, while there may be issues to sort through concerning the impact of AB 6X (Stats. 2001, Ch. 2) on recovery of transition costs, these issues are being addressed in the Rate Stabilization Plan proceedings, Application (A.) 00-11-038 et al. In addition, certain aspects of ongoing transition costs are being considered in R.02-01-011.

SCE filed a petition to modify D.97-06-060 and D.97-11-074 on October 11, 2002. SCE argues that the requirements that it report on its Transition Cost Balancing Account (TCBA) entries and file applications in the Annual Transition Cost Proceeding (ATCP) to establish reasonableness of transition costs have been

rendered moot by the ratemaking structure adopted for SCE in Resolution E-3765. Resolution E-3765 adopted a Procurement Related Obligations Account (PROACT) that replaced the TCBA.¹ The Utility Reform Network (TURN) filed a response on November 12. TURN is concerned about the impact of the opinion of the United States Court of Appeal of the Ninth Circuit. Adoption of PROACT was part of the Commission's settlement of claims in Federal District Court in *SCE vs. Lynch, et al.*, U.S. Dist Ct., Cent. Dist. Cal., Case No. 00-12056-RSWL(Mcx). The United States Court of Appeal for the Ninth Circuit has requested that the California Supreme Court accept certification of certain issues related to state law. The California Supreme Court accepted certification on November 20, 2002. SCE also filed comments on October 21, 2002 stating that it had no position on closure of the proceedings, only an interest in ensuring that its petition could be resolved. No other comments were filed.

SCE is correct that adoption of PROACT effectively replaces the need for its ATP application. By replacing the TCBA with PROACT, which carries its own ratemaking structure, the reporting and reasonableness requirements for the TCBA are rendered moot for SCE. We will relieve SCE of the obligation to report on entries in a non-existent account or file applications to establish reasonableness of transition costs, and modify D.97-06-060 and D.97-11-074 accordingly. Other issues raised in these proceedings are now either moot or are being addressed in the Procurement Rulemaking (R.01-10-024), A.00-11-038 et al., and R.02-01-011; therefore, these proceedings should be closed. However, we

¹ On February 25, 2002, TURN filed an application for rehearing of Resolution E-3765. This ruling does not prejudge disposition of that application for rehearing.

note that today's decision is subject to modification if the California Supreme Court issues findings that require modifications to the settlement.

Comments on Draft Decision

The draft decision of the administrative law judge in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. SCE filed timely comments in support of the draft decision.

Assignment of Proceeding

Henry M. Duque is the Assigned Commissioner and Angela K. Minkin is the assigned ALJ in this proceeding.

Findings of Fact

1. The issues raised in these proceedings are either moot or are being addressed elsewhere.
2. SCE's TCBA was replaced by the PROACT.

Conclusions of Law

1. D.97-06-060 and D.97-11-074 should be modified to relieve SCE of the obligation to file annual transition cost proceedings, report on entries in a non-existent account, or file applications to establish reasonableness of transition costs.
2. Because the issues raised in these proceedings are either moot or are being addressed elsewhere, there is no reason for these proceedings to remain open.
3. This order should be effective today in order to resolve SCE's petition and to close these proceedings expeditiously.

O R D E R

IT IS ORDERED that:

1. Southern California Edison Company's Petition to Modify Decision (D.) 97-06-060 and D.97-11-074 is granted. The decisions are modified to eliminate the requirements that Southern California Edison Company file Annual Transition Cost Proceeding applications and report on entries in the Transition Cost Balancing Account. Specifically, we modify Ordering Paragraph (OP) 1 of D.97-06-060, and OPs 14, 15, and 16 of D.97-11-074.

2. Application (A.) 96-08-001, A.96-08-006, A.96-08-007, A.96-08-070, A.96-08-071, and A.96-08-072 are closed.

3. This order is effective today.

Dated _____, at San Francisco, California.